IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.356 OF 2006

IN

APPEAL FROM ORDER NO.985 OF 2005

IN

NOTICE OF MOTION NO.4776 OF 2003

IN

S.C.SUIT NO.5871 OF 2005

Kalpesh Hirjibhai Patel & Ors. ...Applicants

Versus

Shivram Swaroopram Raval ...Respondent

.....

Mr.Chaurasia i/b Mr.Ajay Mishra for Applicants.

None for Respondent.

.....

CORAM: A.M.KHANWILKAR, J.

APRIL 17, 2006.

P.C.

1. Explanation offered in the Application is unacceptable. However, as the litigant should not suffer for the mistake of the Advocate, in the

interest of justice, Application is allowed in terms of prayer clauses (a) and (b), on condition that the Advocate on record shall personally pay cost to High Court Legal Services Committee quantified at Rs.1,500/- (Rupees One Thousand Five Hundred) within one week from today.

2. If cost is not paid in time, this Application be treated as having been dismissed for non-prosection without further reference to the Court. Whereas, if cost is paid in time, fresh notice be issued to the unserved Respondents, returnable on 12th June 2006.

3. The Applicants shall serve the said Respondents by Advocate’s notice in terms of order dated 17th January 2006 and file affidavit of service on or before 7th June 2006, failing which, Appeal to stand dismissed for non-prosecution without further reference to the Court.

4. This Application is allowed on the above condition.

A.M.KHANWILKAR, J.